

### **Remarks**

Following the above amendments, claims 1-11, 14, 15, and 18-30 are pending in this application. Claims 1, 2, 9, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,317,879 to Jacobson et al. Claim 11 was rejected under 35 U.S.C. § 103 as being obvious in view of Jacobson in view of the examiner's taking official notice of the use of a WAN as a communication media. Claims 3, 4, and 20 were rejected under 35 U.S.C. § 103 as being obvious over the combination of Jacobson in view of U.S. Published Application No. 20030005200 to Kumar et al. Claims 5-8, 16, 17, 21, and 22 were rejected as being obvious in view of the combination of Jacobson, Kumar, and U.S. Patent No. 6,678,741 to Northcutt et al. Claims 12 and 13 were rejected as being obvious in view of the combination of Jacobson and Northcutt. In addition certain portions of the Specification have been objected to because of language used in the Specification.

#### **A. Objections to the Specification**

The examiner has identified a number of sections of the Specification that include informalities. Applicants have amended these sections and submit that the objections to these portions of the Specification should be withdrawn.

#### **B. Claim 1**

Jacobson does not anticipate amended claim 1. Because Jacobson does not disclose each element of claim 1, a rejection of these claims on anticipation grounds is improper. "A claim is not anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir 1987). "The identical invention must

be shown in complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1336 (Fed. Cir 1989).

Claim 1 has been amended to clarify that each processor of each node of the computer system is “operable to execute an operating system.” The addition of the “operating system” element to the claim clarifies that each node of the claimed computer system includes both an operating system and a BIOS. As such, claim 1 concerns the synchronization of BIOS instances between the nodes of a computer system, and Jacobson plainly does not disclose the synchronization of BIOS instances between the nodes of a computer system. In contrast, Jacobson involves the synchronization of multiple host systems to a single set of “operating system information.” (Jacobson, col. 10, line 7).

A plain reading of Jacobson reveals that Jacobson is directed to technique for synchronizing operating system software, and does not disclose a technique for synchronizing BIOS instances among multiple nodes of a single computer system. Jacobson provides examples of operating system software that could be synchronized among the host systems disclosed in Jacobson. In column 10, lines 23-28, Jacobson explains that the synchronized operating systems could comprise either the Windows 95 operating system or the Windows NT operating system.

Considering, for the sake of argument, that the multiple host systems of Jacobson can be considered part of a multiple-node computer system, each host system of Jacobson may include a separate and unsynchronized BIOS instance. Thus, even if each host system in Jacobson were synchronized to a single operating system, this synchronization would not have the effect of synchronizing the various BIOS instances of each host system. Thus, although Jacobson does concern the synchronization of operating systems, Jacobson does not disclose the synchronization of BIOS instances among the multiple host systems of Jacobson. Applicants

submit that the rejection of claim 1 should be withdrawn and this claim should be passed to issuance.

**C. Claim 20**

With respect to claim 20, a prima facie case of obviousness is not established by the combination of Jacobson and Kumar. Because each element of claim 20 is not taught or suggested by the combination of Jacobson and Kumar, an obviousness rejection of claim 20 is not proper.

A prima facie case of obviousness requires a showing that all of the claim limitations of the rejected claims are taught or suggested by the prior art. Manual of Patent Examining Procedure 2143 and 2143.03. The establishment of a prima facie case of obviousness requires that *all* the claim limitations be taught or suggested by the prior art. MPEP 2143.01 (emphasis added). “All words of a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970). Here, claim 20 has been amended to clarify that each node of the multiple-node computer system includes a processor that is “operable to execute an operating system.” Thus, each node of the multiple node computer system includes both an operating system and a BIOS instance. The addition of the “operating system” element to the claim clarifies that each node of the claimed computer system includes both an operating system and a BIOS. As such, claim 20 concerns the synchronization of BIOS instances between the nodes of a computer system, and Jacobson plainly does not disclose the synchronization of BIOS instances between the nodes of a computer system. In contrast, Jacobson involves the synchronization of multiple host systems to a single set of “operating system information.” (Jacobson, col. 10, line 7).

A plain reading of Jacobson reveals that Jacobson is directed to technique for synchronizing operating system software, and does not disclose a technique for synchronizing BIOS instances among multiple nodes of a single computer system. Jacobson provides examples of operating system software that could be synchronized among the host systems disclosed in Jacobson. In column 10, lines 23-28, Jacobson explains that the synchronized operating systems could comprise either the Windows 95 operating system or the Windows NT operating system.

Considering, for the sake of argument, that the multiple host systems of Jacobson can be considered part of a multiple-node computer system, each host system of Jacobson may include a separate and unsynchronized BIOS instance. Thus, even if each host system in Jacobson were synchronized to a single operating system, this synchronization would not have the effect of synchronizing the various BIOS instances of each host system. Thus, although Jacobson does concern the synchronization of operating systems, Jacobson does not disclose the synchronization of BIOS instances among the multiple host systems of Jacobson. Applicants submit that the rejection of claim 1 should be withdrawn and this claim should be passed to issuance.

#### **D. Rejected Dependent Claims**

Each of claims 2-10, 21, and 22 have been rejected herein as being anticipated or made obvious by some combination of Jacobson, Kumar, and Northcutt. Each of claims 2-10, 21, and 22 will not be discussed individually herein, as each of claims 2-10, 21, and 22 depends, either directly or indirectly, from an otherwise allowable base claim (claim 1 or 20). As such, the rejection of these claims should be withdrawn, and these claims should be passed to issuance.


**E. Allowed Claims**

Applicants acknowledge the examiner's indication that claims 14, 15, 18, 19, and 23-30 include allowable subject matter. Each of these claims has been amended to include the limitations of their respective base claim and any intervening claims. As such, the limitations of claims 12 and 13 have been incorporated into claim 14; and the limitations of claims 16 and 17 have been incorporated into claim 18. The limitations of claims 20-22 have been incorporated into claim 23, and claims 24-29 depend directly or indirectly from claim 23. The limitations of claim 20 have been incorporated into claim 30. Applicants submit that these claims should be passed to issuance.

**Conclusion**

Applicants respectfully submit that pending claims 1-11, 14, 15, and 18-30 of the present invention are allowable. Applicants respectfully request that the rejection of these claims be withdrawn and that these claims be passed to issuance.

Respectfully submitted,

  
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